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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
David KAMINSKY	:	Confirmation Number: 7696
	:	
Application No.: 10/672,030	:	Group Art Unit: 2618
	:	
Filed: September 26, 2003	:	Examiner: D. Nguyen
	:	
For: COMPUTER PHONE	:	

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed July 25, 2007, wherein Appellant appeals from the Examiner's rejection of claims 1-9.

I. REAL PARTY IN INTEREST

This application is assigned to IBM Corporation by assignment recorded on September 26, 2003, at Reel 014555, Frame 0307.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals and interferences.

III. STATUS OF CLAIMS

Claims 1-9 are pending and three-times rejected in this Application. It is from the multiple rejections of claims 1-9 that this Appeal is taken.

IV. STATUS OF AMENDMENTS

The claims have not been amended subsequent to the imposition of the Third Office Action dated April 25, 2007 (hereinafter the Third Office Action).

V. SUMMARY OF CLAIMED SUBJECT MATTER

Referring to Figures 2 and 3 and also to independent 1, a computer integrated cordless phone is disclosed. The cordless phone includes a cordless handset transceiver 310 configured to couple with an antenna 340 shared with a wireless computer network adapter 320 through a multiplexer/demultiplexer 330 (page 8, lines 13-16 of Appellant's disclosure). Both the cordless handset transceiver 310 and the wireless computer network adapter 330 transmit and receive data within a common wireless frequency spectrum (page 8, lines 16-17). The wireless computer network adapter 330 is configured to wirelessly communicate with a wireless computer network of computing devices 240, 240 coupled to one another via a wireless access point 260 (page 7, lines 16-17).

Referring to Figures 2 and 3 and also to independent claim 4, a computer integrated cordless telephone is disclosed. The cordless telephone includes a personal computer 240, a radio frequency antenna 340, a wireless computer network transceiver 320, and a cordless telephone transceiver 310. The personal computer has a central processing unit (CPU) 370, display 300, power supply 350, audio processing circuitry 360, a microphone transducer 380 and

at least one speaker 390 (page 8, lines 19-22). The radio frequency antenna 340 is coupled to a multiplexer/demultiplexer 330 (page 8, lines 15-16). The wireless computer network transceiver 320 and the cordless telephone transceiver 310 are disposed within the personal computer 240 (page 8, lines 5-8). The cordless telephone transceiver 310 has a communicative link to the microphone transducer 380 and the at least one speaker 390 through the audio processing circuitry 360 (page 8, lines 20-21). Both of the transceivers 310, 320 are coupled to the multiplexer/demultiplexer 330, are powered by the power supply 350, and share access to the CPU 370 and display 300 (page 8, lines 17-21). The wireless computer network transceiver 320 is configured to wirelessly communicate with a wireless computer network of computing devices 240, 240 coupled to one another via a wireless access point 260 (page 7, lines 16-17).

Referring to Figure 2 and also to independent claim 5, an integrated computer telephony system is disclosed. The telephony system includes at least one computer 240, a cordless phone base station 120, a wireless computer network adapter 320, and a cordless handset circuit 310. The at least one computer 240 participates in a wireless computer network (page 7, lines 13-19). The cordless phone base station 220 is bound to a telephone outlet 230 through a cabled connection (page 7, lines 18-19). The wireless computer network adapter 320 and the cordless handset circuit 310 are both disposed in the at least one computer 240 (page 8, lines 5-8) and are configured to share common computing resources within the at least one computer (page 8, lines 17-21). The wireless computer network adapter 320 establishes and maintains data communications in the wireless computer network (page 9, lines 10-12), and the cordless handset circuit 310 establishes and maintains cordless telephony with the cordless phone base station 220 (page 8, lines 8-10). The wireless computer network adapter 320 is configured to wirelessly

communicate with a wireless computer network of computing devices 240, 240 coupled to one another via a wireless access point 260 (page 7, lines 16-17).

Referring to Figures 2 and 3 and also to independent claims 8 and 9, a method for integrated computer telephony is disclosed. Data is transmitted and received in a personal computer 240 over a wireless computer network of computing devices 240, 240 coupled to one another via a wireless access point 260 through wireless radio frequency structure 250 (page 7, lines 16-17). A telephone call is establish and maintained with a cordless base station 220 through a graphical user interface 300 disposed within the personal computer 240 using the wireless radio frequency structure 250 (page 9, lines 17-19). Data is respectively multiplexed and demultiplexed data in the steps of transmitting and receiving with transmitted/received audio signals processed in the step of establishing and maintaining over the wireless radio frequency structure (page 8, lines 13-17).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-9 are rejected under 35 U.S.C. § 103 for obviousness based upon Flint et al., U.S. Patent No. 5,825,3533 (hereinafter Flint), in view of Awater et al., U.S. Patent Publication No. 2001/0010689 (hereinafter Awater), and further in view of Figure 1 of Applicant's Admitted Prior Art (hereinafter Admitted Prior Art).

VII. ARGUMENT

THE REJECTION OF CLAIMS 1-9 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON FLINT IN VIEW OF AWATER AND THE ADMITTED PRIOR ART

For convenience of the Honorable Board in addressing the rejections, claims 1-4 and 6-9

stand or fall together with independent claim 5.

Claim 5

In the Second Amendment filed February 21, 2007 (hereinafter the Second Amendment), Appellant amended claim 5 to include the following limitations:

the wireless computer network adapter is configured to wirelessly communicate with a wireless computer network of computing devices coupled to one another via a wireless access point.

Appellant further noted that on page 2 of the Second Office Action dated November 22, 2006 (hereinafter the Second Office Action), the Examiner identified column 2, lines 27-47 as teaching a wireless computer network. However, the wireless connection described by Flint is not between a network of computing devices coupled to one another via a wireless access point. Instead, Flint teaches wirelessly connecting a telephone handset 300 with a base station 302. Although the base station 302 is described as being able to handle multiple handsets 300 (column 5, lines 26-29), Flint fails to teach that these handsets 300 are communicatively coupled to one another via the base station 302.

To address this newly added limitation, the Examiner asserted the following on page 3 of the Third Office Action:

As to limitation regarding the wireless computer network adapter is configured to wirelessly communicate with a wireless computer network of computing devices coupled to one another via a wireless access point, it is noted that utilizing a lap-top computer with a wireless phone for communicating a wireless access point is known in the art as disclosed by Awater (see [0003, 0004, 0011]), for providing a user a single device that can connect to a wireless local area network (wireless LAN) while in the work place, and can connect to a Public Switched Telephone Network (PSTN) when outside of the work place (i.e., at home).

At the outset, Appellant notes that the Examiner has mischaracterized the teachings of Awater. Specifically, the Examiner asserts "utilizing a lap-top computer with a wireless phone for communicating a wireless access point is known in the art as disclosed by Awater." Although utilizing a laptop computer with a wireless phone is known, Appellant notes that a laptop computer is not used with a wireless phone "for communicating [with] a wireless access point" based upon the teachings of Awater.

The Examiner then further asserted the following:

Since Flint does suggest a local area network and a PSTN (see col. 2, line 65— col. 3, line 4), and also suggests a base station for controlling appliances and provide remote access to external networks (see Fig. 7 and col. 6, lines 9-24), one skilled in the art would recognize that the computer phone in Flint would be applicable to the system in Awater or to the prior art system as shown in Fig. 1 of the specification as admitted by the Applicant as prior art and would work equally well. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify Flint to provide the computer phone in Flint with a wireless LAN access, thereby providing an access point as claimed, so that the computer phone can connect to a wireless local area network (wireless LAN) while in the work place.

Absent from the Examiner's analysis, however, is how one skilled in the art would combine the computer phone in Flint with the system of Awater or to the prior art system described in Fig. 1 of the Admitted Prior Art based upon the teachings of the applied prior art.

The claimed invention is directed to a system in which "a wireless computer network adapter and cordless handset circuit ... [are] configured to share common computing resources within said at least one computer." Even if one having ordinary skill in the art were motivated to combine the applied prior art, as suggested by the Examiner, the Examiner has failed to establish that the resulting combination would result in the above-identified limitation. Appellant recognizes that one having ordinary skill in the art could arrive at a computer system that includes both a wireless computer network adapter and a cordless handset circuit. This

combination, however, can still provide the Examiner's asserted benefit of having "the computer phone ... connect to a wireless local area network ... while in the work place," while having these having these elements completely separate within the computer. Absent from the Examiner's analysis is common sense rationale, factually supported by the applied prior art, that would have impelled one having ordinary skill in the art to combine the applied prior art such that both the wireless computer network adapter and the cordless handset circuit share common computing resources.

Appellant notes that the Examiner has previously asserted that the wireless modem 209 of Flint corresponds to the claimed wireless computer network adapter. As previously noted in the First Amendment dated September 19, 2006 (hereinafter First Amendment), Appellant disagreed with this assertion. Specifically, in the last paragraph on page 5 of the First Amendment, Appellant wrote:

Applicant respectfully submits that the wireless [modem] 209 is not a wireless computer network adapter, as recited in claim 5. On the contrary, Flint is silent with regard to a wireless computer network. Referring to Fig. 6 and column 5, lines 19-29, feature 300 is described as a "hand-held unit" (i.e., a handset from which voice calls can be received), which is not comparable to another computer within a computer network. Therefore, Flint fails to identically disclose the claimed invention, as recited in claim 5, within the meaning of 35 U.S.C. § 102.

The Examiner responded to this argument on pages 2 and 3 of the Second Office Action by reasoning that since the cordless telephone 300 included a microprocessor, then the cordless telephone 300 could be considered a "computer" and then system described by Flint would be part of a "wireless computer network."

Appellant's position is that the Examiner unreasonably stretched the ordinary and customary meaning of the phrase "wireless computer network," so as to assert that Flint discloses a wireless computer network. However, Appellant's amendment in the Second Office Action

(reproduced above) was intended to clarify the meaning of the term to prevent the Examiner from unreasonably interpreting the phrase. Notwithstanding this amendment, the Examiner is still relying upon the wireless modem 209 to teach the claimed wireless computer network adapter. Appellant's position is that given the ordinary and customary meaning of the phrase "wireless computer network adapter," which is used to communicate with a wireless computer network of computer coupled to one another via a wireless access point, as claimed, one having ordinary skill in the art would not consider the wireless model 209 of Flint to be comparable to a typical wireless computer network adapter (e.g., feature 150 of the Admitted Prior Art). Thus, one having ordinary skill in the art would not look to either replace or supplement the capabilities of the wireless modem 209 with capabilities of a typical wireless computer network adapter since these types of devices are very different.

Claim 1

On page 4 of the Third Office Action, the Examiner addressed independent claim 1 as follows:

Regarding claim 1, the claim is rejected for the same reason as set forth in claim 5 above. In addition, it would have been obvious to one skilled in the art at the time the invention was made to modify Flint so that the cordless handset transceiver and the wireless network adapter would transmit and receive data in a common frequency spectrum as suggested by Awater (see [0026, 0030]), for cost saving. Note that Flint and Awater as modified would teach a multiplexer/demultiplexer as claimed (see Awater, [0026, 0059] or Flint, Fig. I regarding switches SW-1, SW-2), for preventing both transceivers from transmitting/receiving at the same time, in order to reduce signal interferences (see Awater, [0030]).

Similar to claim 5, claim 1 is also directed to the concept of a cordless handset transceiver and a wireless network adapter sharing a resource (i.e., "a cordless handset transceiver configured for coupling to an antenna shared with a wireless computer network adapter through a multiplexer/demultiplexer"). As noted above with regard to claim 1, the Examiner's analysis is

silent as to having the wireless computer network adapter sharing a resource with the cordless handset (i.e., the transceiver of the cordless handset). Thus, Appellant submits that the combination of the applied prior art, *even if* combined, would not result in the claimed invention.

Claims 4 and 8-9

On page 5 of the Third Office Action, the Examiner rejected independent claims 4 and 8-9 for the same reasons that the Examiner relied upon to reject claim 1. Claims 4 and 8-9 each include the concept of have a shared resource for the cordless handset and the wireless computer network adapter, and thus, Appellant relies upon the arguments previously presented with regard to claims 1 and 5 as also applying to claims 4 and 8-9.

Conclusion

Based upon the foregoing, Appellant respectfully submits that the Examiner's rejection under 35 U.S.C. § 103 is not viable. Appellant, therefore, respectfully solicits the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. § 103.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: August 16, 2007

Respectfully submitted,

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CUSTOMER NUMBER 46320

VIII. CLAIMS APPENDIX

1. A computer integrated cordless phone comprising
a cordless handset transceiver configured for coupling to an antenna shared with a
wireless computer network adapter through a multiplexer/demultiplexer, wherein
both said cordless handset transceiver and said wireless computer network adapter
transmit and receive data within a common wireless frequency spectrum, wherein
the wireless computer network adapter is configured to wirelessly communicate with a
wireless computer network of computing devices coupled to one another via a wireless access
point.

2. The computer integrated cordless phone of claim 1, wherein said cordless handset
transceiver comprises a further configuration for coupling to a central processing unit, audio
processing circuitry and power supply within a computing device shared with said wireless
computer network adapter.

3. The computer integrated cordless phone of claim 1, wherein said common wireless
frequency spectrum comprises the industrial scientific medical band.

4. A computer integrated cordless telephone comprising:
a personal computer having a central processing unit (CPU), display, power supply, audio
processing circuitry, a microphone transducer and at least one speaker;
a radio frequency antenna coupled to a multiplexer/demultiplexer;

a wireless computer network transceiver and a cordless telephone transceiver disposed within said personal computer, said cordless telephone transceiver having a communicative link to said microphone transducer and said at least one speaker through said audio processing circuitry, wherein both of said transceivers are coupled to said multiplexer/demultiplexer, are powered by said power supply, and share access to said CPU and display, wherein

the wireless computer network transceiver is configured to wirelessly communicate with a wireless computer network of computing devices coupled to one another via a wireless access point.

5. An integrated computer telephony system comprising:

at least one computer participating in a wireless computer network;

a cordless phone base station bound to a telephone outlet through a cabled connection;

and,

a wireless computer network adapter and cordless handset circuit both disposed in said at least one computer and configured to share common computing resources within said at least one computer, said wireless computer network adapter establishing and maintaining data communications in said wireless computer network, said cordless handset circuit establishing and maintaining cordless telephony with said cordless phone base station, wherein

the wireless computer network adapter is configured to wirelessly communicate with a wireless computer network of computing devices coupled to one another via a wireless access point.

6. The integrated computer telephony system of claim 5, wherein said cordless handset circuit establishes and maintains said cordless telephony with said base station in a frequency spectrum which differs from a frequency spectrum in which said wireless computer network adapter establishes and maintains data communications in said wireless computer network.

7. The integrated computer telephony system of claim 6, wherein said wireless computer network adapter and said cordless handset circuit share common information transceiving circuitry with one another in a single personal computer device.

8. A method for integrated computer telephony, comprising the steps of:

transmitting and receiving data in a personal computer over a wireless computer network of computing devices coupled to one another via a wireless access point through wireless radio frequency structure;

further establishing and maintaining a telephone call with a cordless base station through a graphical user interface disposed within said personal computer using said wireless radio frequency structure; and,

respectively multiplexing and demultiplexing data in said transmitting and receiving steps with transmitted and received audio signals processed in said establishing and maintaining steps over said wireless radio frequency structure.

9. A machine readable storage comprising a computer program for providing integrated computer telephony, said computer program comprising a routine set of instructions for causing the machine to perform the steps of:

transmitting and receiving data in a personal computer over a wireless computer network of computing devices coupled to one another via a wireless access point through wireless radio frequency structure;

further establishing and maintaining a telephone call with a cordless base station through a graphical user interface disposed within said personal computer using said wireless radio frequency structure; and,

respectively multiplexing and demultiplexing data in said transmitting and receiving steps with transmitted and received audio signals processed in said establishing and maintaining steps over said wireless radio frequency structure.

IX. EVIDENCE APPENDIX

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellant in this Appeal, and thus no evidence is attached hereto.

X. RELATED PROCEEDINGS APPENDIX

Since Appellant is unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.